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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,037	11/26/2003	Jan Klier	200312050-1	7798

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EXAMINER
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KE, PENG

ART UNIT	PAPER NUMBER
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2174

NOTIFICATION DATE	DELIVERY MODE
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08/30/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/723,037	<b>Applicant(s)</b> KLIER, JAN	
	<b>Examiner</b> SIMON KE	<b>Art Unit</b> 2174	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14, 17, 18, 20, 21 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 17-18, 20-21, and 23-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action is responsive to communications: Amendment, filed on 6/15/10

Claims 1-14, 17-18, 20-21, and 23-28 are pending in this application. Claims 1, 11, and 18 are independent claims. In the Amendment, filed on 6/15/10, claims 1, 4, 8-11, 20, and 24 were amended and claims 27 and 28 were added.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5, 7-10, 11, 12, 13, 14, 17-18, 20-21, and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Jong et al. (7,107,534) in view of HD\_Speed (SteelBytes.com) further in view of Erik Riedel, Active Disks-Remote Execution for NASD (Riedel).

Re claim 1, De Jong et al. discloses an automated storage system comprising:

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a data access drive (de Jong, col. 6, lines 28-45) operable to read and write computer-readable data on storage media (de Jong, col. 6, lines 28-45 );

a drive controller (de Jong, col. 6, lines 28-45) provided at the data access drive; computer-readable program code (de Jong, col. 7, lines 20-56) provided in computer-readable storage (de Jong, col. 6, lines 4-20), the computer-readable program code executable (see de Jong, col. 6, lines 25-45, col. 7, lines 55-col. 8, lines 30, fig. 13, col. 9, lines 55; col. 10, lines 25) for generating drive information and user interface rendering data (de Jong, col. 6, lines 60-col. 7, lines 23), wherein drive information comprises a status of the data access drive (see de Jong, fig. 7, col. 9, lines 1-20); and

a user interface module (see de Jong, col. 6, lines –col.7, lines 23) to output the drive information via a user interface in accordance with the user interface rendering data (de Jong, col. 6, lines 60-col. 7, lines 23).

de Jong does not specifically providing computer-readable program code at the data access drive which provides drive information that comprises an operating speed of the data access drive. HD\_Speed teaches a GUI application that a user can install on a drive which will display drive information that comprises a status of the data access drive and an operating speed of the data access drive (See Page 1). It would have been obvious to one of ordinary skill at the time of the invention to modify de Jong with the teachings of HD\_Speed and include drive information that comprises a status of the data access drive and an operating speed of the data access drive with the motivation to provide the user with better benchmark of their computer's capabilities and to help the user diagnose potential problems with a disk drive.

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de Jong \_Speed implies that the computer-readable program code is executable by the drive controller. (see de Jong, col. 6, lines 4-20; server which is the drive controller implicitly execute part of the graphical out on the client side) Riedel teaches that computer-readable program code can be executable by the drive controller. (See Pages 1 and 2) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify de Jong \_Speed with the teachings of Riedel and include the ability to execute code right on the drive controller with the motivation to improve application performance (See Riedel Pages 1-5).

Re claim 2, de Jong et al. discloses a system, wherein the computer-readable program code includes a render engine (de Jong col. 10, lines 25-46)) to generate the user interface rendering data (de Jong col. 10, lines 25-46).

Re claim 3, de Jong et al. discloses a system, wherein the computer-readable program code includes a state machine (de Jong col. 10, lines 25-46) to retrieve the drive information.

Re claim 4, de Jong et al. discloses a method as set forth in claim 1 above. De Jong et al. further disclose wherein the drive controller retrieves updated drive information if a data access drive changes state. (see de Jong, col. 9, lines 1-20)

Re claim 5, de Jong et al. discloses a system, further comprising a communication path (inherent, de Jong, col.9, lines 1-20) established between the drive controller and the user interface module, the drive information and the user interface rendering data provided to the user interface module via the communication path (de Jong, col. 9, lines 1-20).

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Re claim 7, Maffezzoni et al. discloses a method as set forth in claim 1 above. De Jong et al. disclose a communication path established between the drive controller and a system controller and between the system controller and the user interface module, the drive information and the user interface rendering data provided to the user interface module via the communication path. (see de Jong, col. 5, lines 55-col. 6, lines 30)

Re claim 8, de Jong et al. discloses a system, wherein the drive information and the user interface rendering data is displayed in a graphical user interface (see de Jong, col. 5, lines 55-col. 6, lines 30).

Re claim 9, de Jong et al. discloses a method as set forth in claim 1 above. de Jong disclose wherein the drive controller retrieves updated drive information based at least in part on input from the user interface module. (see de Jong, col. 10, lines 25-46)

Re claim 10, de Jong et al. discloses a method as set forth in claim 1 above. de Jong et al. disclose wherein the drive controller receives control instructions from the user interface module. (see de Jong, col. 5, lines 55-col. 6, lines 5)

Re claim 11, it is rejected under the same rationale as claim 1. de Jong further teaches receiving an indication of activation of a button in the graphical user interface, wherein activation of the button is a request for the drive information, and wherein receiving the drive information and graphical user interface rendering data is in response to the indication of activation of the button. (see de Jong, col. 10, lines 25-46)

Re claim 12, de Jong discloses a method as set forth in claim 11 above. de Jong further teaches disclose wherein receiving the drive information and the graphical user

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interface rendering data is via a system controller. (see de Jong, col. 5, lines 55-col. 6, lines 5)

Re claim 13, de Jong et al. discloses a method of claim 11 wherein receiving the graphical user interface rendering data comprises receiving the graphical user interface rendering data from a render engine executed by the drive controller at the data access drive (See Riedel Pages 1 and 2).

Re claim 14, de Jong discloses a method, wherein outputting the drive information comprises displaying the drive information in the graphical user interface in accordance with the graphical user interface rendering data (see de Jong col. 10, lines 23-46).

Re claim 17, de Jong et al. disclose a method as set forth in claim 11 above. de Jong disclose receiving a second indication of activation of the button in the graphical user interface; (see de Jong col. 10, lines 23-46).and

outputting updated drive information in the graphical user interface in response to receiving the second indication. (see de Jong col. 10, lines 23-46).

Re claim 18, it is rejected under the same rationale as claim 11. Supra.

Re claim 20, it is rejected under the same rationale as claim 17. Supra.

Re claim 21, de Jong et al. discloses wherein the user interface rendering data enables drawing of a graphical image in the user interface (see de Jong figure 7).

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Re claim 24, de Jong et al. discloses a system wherein the user interface comprises a graphical user interface, wherein the user interface rendering data comprises a graphical user interface rendering data, and wherein the user interface module displays the drive information in a window of the graphical user interface in accordance with the graphical user interface data (see de Jong figure7).

Re claim 25, de Jong discloses a method as set forth in claim 11 above. de Jong explicitly disclose sending output regarding activation of the button to the drive controller, wherein the drive information and graphical user interface rendering data is generated by the drive controller in response to the output. (see de Jong col. 10, lines 25-45)

Claim 26 is similar in scope to claim 13; therefore, it is rejected under similar rationale.

Re claim 27, de Jong teaches the limitation of claim 21. de Jong further teaches wherein the graphical image includes a user actuatable button that when actuated causes the computer-readable program code to execute on the drive controller to retrieve the drive information from a module at the drive controller. (see de Jong, col. 10, lines 25-46)

Re claim 28, it is rejected under the same rationale as claim 27. Supra.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over de Jong-HD\_Speed-Riedel in view of Matsumoto et al. (20020124124).

Re claim 6, de Jong\_Speed-Riedel discloses a method as set forth in claim 5 above. de Jong\_Speed-Riedel does not explicitly disclose wherein the communication path is established separate from a data path with the drive controller. However,



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Matsumoto et al. teaches of wherein the communication path is established separate from a data path with the drive controller (plurality of ports, see abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the system of Matsumoto et al. having separate communication path or plurality of ports with the method of de Jong\_Speed-Riedel on the in order to provide ability for variety in interaction portals. Furthermore, it would have been an obvious matter to establish communication path that is separate from a data path with the drive controller, since such a modification would have involved the mere application of a known technique to a piece of prior art. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established

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functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over de Jong-HD\_Speed-Riedel in view of CD Speed 2000.

Re claim 22, de Jong -HD\_Speed-Riedel substantially discloses a system as set forth in claim 1 above. de Jong -HD\_Speed-Riedel does not explicitly disclose wherein the drive information further comprises an error rate of the data access drive. CD Speed 2000 discloses the drive information further comprises an error rate of the data access drive (See Page 1 which states that errors can be measure with some recorders). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify de Jong -HD\_Speed-Riedel with the teachings of CD Speed 2000 and include the error rate of the data access drive with the motivation to provide the user with better tools to diagnose a potential data drive problem.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-14, 17-18, 20-21, and 23-28 have been considered but are moot in view of the new ground(s) of rejection.

### ***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BORIS PESIN whose telephone number is (571)272-4070. The examiner can normally be reached on Monday-Friday except every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Chow can be reached on (571)272-7767. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peng Ke/

Primary Examiner, Art Unit 2174